



## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Trademark Post Registration

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0055 (Trademark Post Registration). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0055 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for



Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8946; or by e-mail at Catherine.Cain@uspto.gov with "0651-0055 comment" in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

## **SUPPLEMENTARY INFORMATION:**

### **I. Abstract**

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

This information collection covers various communications submitted by individuals and businesses to the USPTO occurring after registration of a trademark. One type of communication is a request to amend registrations to delete goods or services that are no longer being used by the registrant or registration owner. Registered marks remain on the register for 10 years and can be renewed, but will be cancelled unless the registration owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce, and a renewal application, within specific deadlines. Registration owners may also request to amend or divide a registration, respond to a post-registration Office action, and surrender a registration.

The information in this information collection is used to maintain the quality of the trademark register. The register information may be accessed by an individual or by businesses to determine the availability of a mark. By keeping the register current and



accurate, parties may reduce the possibility of initiating use of a mark previously adopted by another.

## **II. Methods of Collection**

Items in this information collection must be submitted via online electronic submissions through the Trademark Electronic Application System (TEAS). In limited circumstances, applicants may also be permitted to submit the information in paper form by mail or hand delivery.

## **III. Data**

*OMB Control Number:* 0651-0055.

*Form Numbers:*

- PTO Form 1563 (Declaration of Use of Mark in Commerce Under Section 8)
- PTO Form 1573 (Declaration of Incontestability of a Mark Under Section 15)
- PTO Form 1583 (Combined Declaration of Use and Incontestability Under Sections 8 and 15)
- PTO Form 1597 (Section 7 Request)
- PTO Form 1963 (Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 and 9)
- PTO Form 2302 (Response to Office Action for Post-Registration Matters)
- PTO Form 2309 (Surrender of Registration for Cancellation)
- PTO Form 2310 (Request to Divide Registration)
- PTO Form 2311 (Section 12(c) Affidavit)

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

*Estimated Number of Respondents:* 219,694 respondents per year.

*Estimated Number of Responses:* 219,694 responses per year.



*Estimated Time per Response:* The USPTO estimates that it takes the public approximately between 10 minutes (0.17 hours) and 45 minutes (0.75 hours), depending on the complexity of the situation. This includes the time to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hour:* 113,620 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$45,448,000.

**Table 1: Burden Hour/Burden Cost to Private Sector Respondents**

| Item No. | Item   | Estimated Annual Respondents | Estimated Annual Responses | Estimated Time For Response (hours) | Estimated Burden (hour/year) | Rate <sup>1</sup> (\$/hour) | Estimated Annual Respondent Cost Burden |
|----------|--|------------------------------|----------------------------|-------------------------------------|------------------------------|-----------------------------|---|
|          |  |                              | (a)                        | (b)                                 | (a) x (b) = (c)              | (d)                         | (c) x (d) = (e)                         |
| 1        | Declaration of Use of Mark in Commerce Under Section 8 (PTO Form 1563)   | 11,932                       | 11,932                     | 0.50<br>(30 minutes)                | 5,966                        | \$400                       | \$2,386,400                             |
| 2        | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 & 9 (PTO Form 1963) | 70,235                       | 70,235                     | 0.50<br>(30 minutes)                | 35,118                       | \$400                       | \$14,047,200                            |
| 3        | Declaration of Incontestability of a Mark Under Section 15 (PTO Form 1573)   | 853                          | 853                        | 0.17<br>(10 minutes)                | 145                          | \$400                       | \$58,000                                |
| 4        | Combined Declaration of Use and Incontestability Under Sections 8 and 15 (PTO Form 1583)   | 72,448                       | 72,448                     | 0.50<br>(30 minutes)                | 36,224                       | \$400                       | \$14,489,600                            |
| 5        | Surrender of registration for cancellation (PTO Form 2309)   | 390                          | 390                        | 0.17<br>(10 minutes)                | 66                           | \$400                       | \$26,400                                |
| 6        | Section 7 Request (PTO Form 1597)  | 5,330                        | 5,330                      | 0.58<br>(35 minutes)                | 3,091                        | \$400                       | \$1,236,400                             |
| 7        | Response to Office Action for Post-Registration Matters (PTO Form 2302)  | 12,001                       | 12,001                     | 0.75<br>(45 minutes)                | 9,001                        | \$400                       | \$3,600,400                             |
| 8        | Request to Divide Registration (PTO Form 2310)   | 2,566                        | 2,566                      | 0.50<br>(30 minutes)                | 1,283                        | \$400                       | \$513,200                               |
| 9        | Section 12(c) Affidavit (PTO Form 2311)  | 1                            | 1                          | 0.25<br>(15 minutes)                | 1                            | \$400                       | \$400                                   |

<sup>1</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.



|  |       |         |         |     |        |     |              |
|--|-------|---------|---------|-----|--------|-----|--------------|
|  | Total | 175,756 | 175,756 | --- | 90,895 | --- | \$36,358,000 |
|--|-------|---------|---------|-----|--------|-----|--------------|

**Table 2: Burden Hour/Burden Cost to Individual or Household Respondents**

| Item No. | Item   | Estimated Annual Respondents | Estimated Annual Responses | Estimated Time For Response (hours) | Estimated Burden (hour/year) | Rate <sup>2</sup> (\$/hour) | Estimated Annual Respondent Cost Burden |
|----------|--|------------------------------|----------------------------|-------------------------------------|------------------------------|-----------------------------|---|
|          |  |                              | (a)                        | (b)                                 | (a) x (b) = (c)              | (d)                         | (c) x (d) = (e)                         |
| 1        | Declaration of Use of Mark in Commerce Under Section 8 (PTO Form 1563)   | 2,983                        | 2,983                      | 0.50<br>(30 minutes)                | 1,492                        | \$400                       | \$596,800                               |
| 2        | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 & 9 (PTO Form 1963) | 17,559                       | 17,559                     | 0.50<br>(30 minutes)                | 8,780                        | \$400                       | \$3,512,000                             |
| 3        | Declaration of Incontestability of a Mark Under Section 15 (PTO Form 1573)   | 213                          | 213                        | 0.17<br>(10 minutes)                | 36                           | \$400                       | \$14,400                                |
| 4        | Combined Declaration of Use and Incontestability Under Sections 8 and 15 (PTO Form 1583)   | 18,112                       | 18,112                     | 0.50<br>(30 minutes)                | 9,056                        | \$400                       | \$3,622,400                             |
| 5        | Surrender of registration for cancellation (PTO Form 2309)   | 98                           | 98                         | 0.17<br>(10 minutes)                | 17                           | \$400                       | \$6,800                                 |
| 6        | Section 7 Request (PTO Form 1597)  | 1,332                        | 1,332                      | 0.58<br>(35 minutes)                | 773                          | \$400                       | \$309,200                               |
| 7        | Response to Office Action for Post-Registration Matters (PTO Form 2302)  | 3,000                        | 3,000                      | 0.75<br>(45 minutes)                | 2,250                        | \$400                       | \$900,000                               |
| 8        | Request to Divide Registration (PTO Form 2310)   | 641                          | 641                        | 0.50<br>(30 minutes)                | 321                          | \$400                       | \$128,400                               |
|          | Total  | 43,938                       | 43,938                     | ---                                 | 22,725                       | ---                         | \$9,090,000                             |

*Estimated Total Annual (Non-hour) Respondent Cost Burden:* \$89,646,738. This information collection has no capital startup, maintenance fees, or operating fees. However, this information collection does have filing fees and postage costs. The total

<sup>2</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.



annual non-hour respondent cost burden for this information collection in the form of filing fees (\$89,646,625) and postage costs (\$113) is approximately \$89,646,738.

### Filing Fees

Filing fees are charged per class of goods or services and can vary depending on the number of classes. The filing fees shown here are based on the minimum fee of one class per document associated with this information collection.

**Table 3: Filing Fees (Non-hour) Cost Burden Trademark Post Registration**

| Item No. | Item   | Estimated Annual Responses<br>(a) | Estimated Cost<br>(b) | Estimated Non-Hour Cost Burden<br>(a) x (b) = (c) |
|----------|--|-----------------------------------|-----------------------|---|
| 1        | Declaration of Use of Mark in Commerce Under Section 8   | 14,915                            | \$225                 | \$3,355,875                                       |
| 2        | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 & 9 (TEAS)  | 87,791                            | \$525                 | \$46,090,275                                      |
| 2        | Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 & 9 (paper) | 3                                 | \$825                 | \$2,475   |
| 2        | Issuing New Certificate of Registration  | 200                               | \$100                 | \$20,000  |
| 2        | Certificate of Correction, Registrant's Error (TEAS)   | 6,463                             | \$100                 | \$646,300   |
| 2        | Certificate of Correction, Registrant's Error (paper)  | 1                                 | \$200                 | \$200   |
| 3        | Declaration of Incontestability of a Mark Under Section 15   | 1,066                             | \$200                 | \$213,200   |
| 4        | Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS)   | 90,557                            | \$425                 | \$38,486,725                                      |
| 4        | Combined Declaration of Use and Incontestability Under Section 8 and 15 (paper)  | 3                                 | \$625                 | \$1,875   |
| 6        | Section 7 Request  | 488                               | \$100                 | \$48,800  |
| 6-7      | Deletion of Goods or Services after submission and prior to acceptance of a section 8 affidavit (TEAS)                             | 1,839                             | \$250                 | \$459,750   |
| 6-7      | Deletion of Goods or Services after submission and prior to acceptance of a section 8 affidavit (paper)                            | 1                                 | \$350                 | \$350   |
| 8        | Request to Divide Registration   | 3,207                             | \$100                 | \$320,700   |
| 9        | Section 12(c) Affidavit  | 1                                 | \$100                 | \$100   |
|          | <b>Total</b>   | ---                               | ---                   | <b>\$89,646,625</b>                               |

### Postage Costs



Although the USPTO requires that the items in this information collection be submitted electronically, the items may, in limited situations, be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.05. The USPTO estimates approximately 14 submissions per year may be mailed to the USPTO, for a total postage cost of \$113 per year.

*Respondent's Obligation:* Required to obtain or retain benefits.

#### **IV. Request for Comments**

The USPTO is soliciting public comments to:

- a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility;
- b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- c) Enhance the quality, utility, and clarity of the information to be collected; and
- d) Minimize the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask



in your comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

**Kimberly Hardy,**

*Information Collections Officer,*

*Office of the Chief Administrative Officer,*

*United States Patent and Trademark Office.*

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